# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CWP No. 267 of 1998**

**Reserved on: 6.8.2007**

**Date of decision: 17.9.2007**

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Ranjit Singh ... Petitioner

Versus

Union of India & Ors. … Respondents

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*Coram :*

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] No.

For the Petitioner: Mr. I.D. Bali, Sr. Advocate with Mr. Virender Bali, Advocate.

For the respondents: Mr. Ravinder Thakur, Central Government Counsel, for respondents No. 1 & 2.

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**Per V.K. Ahuja, J.:**

This is a civil writ petition filed under Articles 226/227 of the Constitution of India challenging the orders passed by the Central Administrative on 8.1.1997 as well as the Review Petition filed by the petitioner which was decided on 8.5.1997.

Briefly stated the facts of the case are that an application under Section 19 of the Administrative Tribunals Act, 1985 was filed by respondent No. 3 before the learned Central Administrative Tribunal challenging the appointment of the petitioner Ranjit Singh to the post of EDBPM vide order dated 21.3.1996/21.8.1996. The grounds taken by the present petition before the Bench of the Central Administrative

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Tribunal were that the petitioner was having highest percentage of marks in Matriculation Examination which was the sole criteria for selection and as also the fact that he was a candidate belonging to the Scheduled Caste and accordingly, his selection made by the respondents No. 1 & 2 was in accordance with the rules. This appointment of the present petitioner was challenged by respondent No. 3 before the Central Administrative Tribunal, which allowed the application filed by respondent No. 3 and quashed the appointment of the present petitioner to the said post. A review petition was filed by the present petitioner which was also dismissed by the Central Administrative Tribunal vide its order dated 8.5.1997. Being aggrieved by the said order passed by the Central Administrative Tribunal, the petitioner had filed the present writ petition.

We have heard the learned counsel for the parties and have also gone through the record of the case.

A perusal of the impugned order passed by the Central Administrative Tribunal on 8.1.1997 shows that they had considered the fact that earlier the criteria for appointment to the post of EDBPM was the percentage of the marks obtained by the candidates in the Matriculation Examination. It was observed that the petitioner was having high percentage marks in Matriculation Examination as compared to respondent No. 3. Therefore, the petitioner was appointed to the post. In the Original Application before the Central Administrative Tribunal they observed that respondent No. 3 who had filed the Original Application before the Tribunal was a post graduate and he was also having an experience of working at the same post for more than 5 months as well as experience of working as Extra Departmental Agent for about 10½ years. It was also observed by the Central Administrative

Tribunal that Full Bench Judgment of this very Tribunal had observed that the weightage should be given to a provisional E.D. Agent for his experience, though it was observed that previous experience will not be the only decisive factor for selection which has to be taken into account alongwith the other relevant factors. It was observed by the Tribunal that Full Bench judgment has assumed finality and, therefore, respondent/department should have accordingly modified its recruitment procedure by incorporating the same in the rules and it cannot be said that these orders of the Full Bench was not applicable in the case of H.P. Circle. In regard to the other grounds that the petitioner was preferred because of being scheduled caste. It was not relevant since there has been no indication that preference will be given to the scheduled caste candidates who can have only reservation upto 15% and the scheduled caste candidates cannot be allowed to fill up any and every vacancy which arises in the Government Department. It was observed that there was nothing on record to show that this post was to be filled up by scheduled caste candidate to make up for the reservation quota and for both these reasons, appointment of the present petitioner was set aside and the respondents were directed to consider the case of respondent No. 3 Sher Singh for appointment as EDBPM in which he was working from 21.3.1996/21.8.1996 and that he should be allowed to continue as EDBPM on regular basis thereafter.

The reasonings given by the learned Tribunal can be said to be correct in view of the facts of the case and the judgment of the Bull Bench of the Tribunal. Respondent No. 3 was better qualified and was also having an experience to the post to which he was appointed and there was nothing to show that this post was reserved for scheduled caste. Therefore, the order passed by the learned Central

Administrative Tribunal setting aside the appointment of the present petitioner does not suffer from any illegality. The Review Petition filed by the present petitioner was also dismissed by the Tribunal vide its order holding that no case was made out to show that there was any error apparent on the record and, therefore, orders passed by the Tribunal on 8.1.1997 was affirmed. Both these orders do not suffer from any illegality and as such, there is no merit in the writ petition which deserves to be dismissed accordingly and the same is dismissed accordingly. Parties are left to bear their own costs.

**( Deepak Gupta ),**
**Judge**

**( V.K. Ahuja ),**
**Judge**

**September 17, 2007**
**(BSS)**